

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 200/96

Friday this the 7th day of June, 1996.

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR. P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

G.Devapalan Nair,
Director,
Ground Water Department,
Government of Kerala,
Thiruvananthapuram. Applicant

(By Advocate Mr. Murali Purushothaman for
N.Nandakumara Menon)

Vs.

1. The Union of India, represented by its Secretary, Ministry of Personnel, Public Grievances and Pension, New Delhi.
2. The Union Public Service Commission, represented by its Secretary, Dholpur House, Shahjahan Road, New Delhi.
3. The State of Kerala, represented by the Chief Secretary, Secretariat, Thiruvananthapuram.
4. Shri K.Raghavan, Additional Secretary, Government of Kerala, now on deputation as Administrator, Guruvayur Devaswom, Guruvayur.
5. Shri V.R.Padmanabhan, Additional Secretary to Government Planning & Economic Affairs, Secretariat, Thiruvananthapuram.
6. Shri J.Venugopalan Nair, Chairman, Kerala State Pollution Control Board, Pattom, Thiruvananthapuram.
7. The Selection Committee for selection to Indian Administrative Service, constituted under Regulation 3 of the Indian Administrative Service (Appointment by Promotion) Regulations 1955, Dholpur House, Shahjahan Road, New Delhi. Respondents

(By Advocates Mr.Shekif for SCGSC (R.1,2&7)
Mr.D.Sreekumar, Govt.Pleader (R.3)

contd.

The application having been heard on 7th June, 1996
the Tribunal on the same day delivered the following:

O R D E R

CHETTUR SANKARAN NAIR (J), VICE CHAIRMAN

Applicant seeks a direction to the 7th respondent (Select Committee for Selection to the Indian Administrative Service) to consider him for appointment to the Indian Administrative Service. According to him, he was eligible for consideration, but was denied consideration. He relies on our judgment in O.A. 471/95 and argues that we had found the process of selection bad and that fresh selections should therefore be made, considering him also.

2. According to respondents, applicant is not eligible to be considered and the judgment in O.A. 471/95 did not hold that the selection was bad.

3. The second of the two contentions is the sheet anchor of applicant's case. Another officer of the State service filed O.A. 471/95 in March, 1995 complaining that consideration was denied to him, due to short listing by a 'Screening Committee', which had no existence in law. We found (17.10.95) that the 'Screening Committee' had no powers in the matter of selection, that 'short listing' being part of the process of selection, it could be done only by the Select Committee. Denial of consideration at the instance of the 'Screening Committee' was therefore held to be illegal. According to applicant, anything done by the Select Committee must be considered illegal. This argument would have been valid if the screening committee had done anything

other than withholding the case of some candidates. The Screening Committee had only 'shortlisted'. It did nothing more nor could it do anything more. Perhaps the files containing all the applications passed through its hands, on its way to the State Government, who were to make proposals. It was only the State Government which made a proposal to the Select Committee in this case, and not the Screening Committee. The 'Screening Committee' only withheld the candidature of some officials. This 'withholding', or 'shortlisting' was found illegal. The infirmity we found in O.A. 471/95 related to a pre selection process and not to the process of selection.

4. The case of the applicant in O.A. 471/95 was that the screening committee had no authority to 'screen out' or deny consideration, and we considered the case only with reference to that contention. We held:

"The committee had no authority in law and it acted illegally in denying the right of consideration to applicant by short listing."

It is important to note that we did not quash the proceedings of the select committee -

"While moulding relief, we do not propose to quash the panel, for reasons more than one. We would only direct the case of applicant to be considered by the Select Committee constituted under the relevant regulations."

(emphasis supplied)

The judgment makes it very clear that we were dealing only with the "shortlisting". We were not dealing with selection at all. We directed consideration by the competent body where consideration was denied by an incompetent body. The irregularity of withholding consideration by an incompetent body is unrelated to consideration by a competent body under the statute. Short listing by an incompetent agency does not void an act of selection by the committee competent to do so under the Regulations. Therefore, the decision relied on by applicant is of no assistance to him.

5. May be his case is comparable (assuming the question of eligibility raised by the State is in his favour) to the case of the applicant in O.A.471/95 in a broad sense in that both were denied consideration by the competent agency by the intervention of an incompetent agency. As we noticed the only vitiating circumstance was denial of consideration of eligible candidates and not consideration of eligible candidates by a competent body. If applicant had a grievance that he was not considered, he should have sought relief in good time. Public administration has higher objectives to fulfil than merely fulfilling the career opportunities of public servants. An official discovering a belated claim cannot hold up the process of selection to a service, which is of vital importance in manning public services. Applicant never once raised a grievance regarding supersession before any authority, at any time. He did not move a little finger nor raise a faint whisper, not

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even when O.A. 471/95 was filed, not even after O.A. 471/95 was decided, but only four or five months thereafter. A court or a Tribunal will be illjustified in holding up a process essential to run public administration as and when an aggrieved person or person who imagines himself to be aggrieved, arrives at its portals. We are supported in our view by a long line of decisions of the Supreme Court including the decision in Bhoop Singh's case AIR 1992 SC 1414.

6. We decline jurisdiction and dismiss the application.

7. There is one matter to which we would make reference before parting with this case. Counsel for applicant submitted that applicant was more keen on attending to his official duties than following up his career prospects and that this should not stand in his way when a future vacancy arises. Applicant is only 51 years old and we are told that there may be a vacancy arising in 1997 or so. There is no bar in considering him for that because the regulation only forbids consideration of those who have crossed the age of 52 ordinarily. If it is a case where there was delay on the part of the applicant's parent department in forwarding his application and if he is a good officer who deserves consideration, non-consideration during this year will not stand in the way of consideration when a future vacancy arises. Perhaps as

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in the case of appointment by promotion regulations, there may be a provision excluding the operation of the bar of age when there is a delay in the meeting of the select committee. No costs.

Dated this the 7th day of June, 1996.


P.V. VENKATAKRISHNAN
ADMINISTRATIVE MEMBER


CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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